(B) A material specified in paragraph (d)(1)(ii) of this section.

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[FR Doc. 93–14775 Filed 6–22–93; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 672

[Docket No. 921107–3068; I.D. 061793C]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in Statistical Area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second quarterly allowance of the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), June 18, 1993, through 12 noon, A.l.t., July 1, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The second quarterly allowance of pollock TAC in Statistical Area 62 is 5,918 metric tons (mt), determined in accordance with § 672.20(a)(2)(iv).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1993 second quarterly allowance of pollock TAC in Statistical Area 62 will soon be reached. The Regional Director established a directed fishing allowance of 5,326 mt, and has set aside the remaining 592 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, directed fishing for pollock in Statistical Area 62 is prohibited, effective from 12 noon A.l.t., June 18, 1993, through 12 noon, A.l.t., July 1, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 17, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–14774 Filed 6–18–93; 1 10 pm]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 119
Wednesday, June 23, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Notice of intent; request for comment.

SUMMARY: The Farm Credit Administration is requesting comments regarding the appropriateness of the requirements it imposes on the Farm Credit System. This action is being taken to improve the regulatory environment in which the Farm Credit System operates. Comments are sought on the requirements that duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived.

DATES: Comments must be submitted on or before September 21, 1993.

ADDRESSES: Comments should be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all comments received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Eric Howard, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4481, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration (FCA) is the Federal agency responsible for regulating the institutions that comprise the Farm Credit System (FCS). As a government-sponsored enterprise (GSE), the FCS primarily provides loans to farmers, ranchers, aquatic producers, and agricultural cooperatives. The FCS institutions also provide loans for rural housing and rural utilities.

Several Federal regulatory agencies responsible for the commercial banking and savings and loan industries recently announced plans to reduce loan documentation requirements for their highest quality lenders. They did so in response to expressed concerns that certain regulatory requirements have contributed to limited credit availability. Specifically, the concern is that the financial regulators have gone too far in their efforts to promote safety and soundness by making loan documentation and other requirements too burdensome, resulting in (1) A significant financial cost to lenders, and (2) an increased reluctance to lend. The Board of the FCA has considered whether or not it should adopt an approach similar to that recently adopted by the other regulators.

The FCA Board has decided to focus its attention on the broader concerns of the efficiency and the cost effectiveness of regulation of the FCS in general. Marginal modifications to the loan documentation program for a select few institutions do not seem to adequately address the problems and needs of the FCS. Moreover, the FCS, as a GSE, has statutory limitations on the use of its funds, making it difficult to correlate loan documentation that varies from institution to institution and from borrower to borrower, to a reluctance to lend money. Accordingly, the FCA is interested in hearing from the public, as outlined in this statement, about requirements it imposes that duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived.

Loan Documentation

The FCA is interested in identifying those documents required by the FCA that exceed those necessary to carry out the Farm Credit Act of 1971, as amended, in a safe and sound manner. We request the comments focus on the FCA regulations, bookletters, or examination guidance that impose excess loan documentation requirements, as opposed to statutory requirements or lender procedures that the FCA does not control. For comments to be most helpful, they should be specific and identify the burden created by the documentation requirement. Commenters are asked to suggest alternatives to existing regulations and procedures that could achieve safe and sound underwriting objectives more efficiently.

Regulatory Burden

Efforts to reduce unnecessary regulatory burden have been underway for some time. For example, the FCA has reduced the number of matters requiring its "prior approval" by more than 70 percent over the last 5 years. Most remaining matters requiring agency "prior approval," such as charter and funding approvals, are required by statute. Nevertheless, the FCA continues to be interested in learning of any regulatory requirements that the public believes are duplicative, unneeded, or not cost justified.

Please note that there are some regulations which have been through a comment period. Also, a number of the FCA's regulations have recently been published for a public comment period or are about to be published for public comment. These regulations are described below. The FCA would like to receive comments on the regulatory burden of the listed regulations during their designated comment periods. Comments on the effect of other regulations would be especially helpful at this time as the FCA seeks to reduce regulatory burden.

REGULATIONS UNDER CONSIDERATION

Issue	Explanation	Progress to date	Next action expected
Capital Regulation	Would implement permanent capital-related provisions of the statute pertaining to agreements between Farm Credit Banks and associations on where to count certain allocated equities, held by the Farm Credit Banks, for purposes of computing permanent capital.	The FCA Board adopted the proposed rule in May 1993.	The regulation will be published for a 30-day public comment period in mid-June, and the Board expects to vote on the final rule in the fall of 1993.
Other High Risk Assets ..	Would update accounting and reporting requirements, promote consistency with industry practices, and ensure that the regulations are consistent with GAAP. The proposed regulations eliminate the term "nonperforming" and the categories of "other high risk loans" and "other restructured and reduced rate loans.".	An announcement of proposed rulemaking was published in late 1992, comments were received and considered by the agency. The proposed regulation was published for a 30-day public comment period which closes on July 8, 1993. (58 FR 32071).	The Board expects to vote on the final regulation in the fall of 1993, to be effective December 31, 1993.
General Financing Agreements.	Would clarify existing regulations to provide uniform guidelines for developing and executing general financing agreements between Farm Credit Banks and direct lending institutions.	Three meetings held—one with association representatives and two with bank representatives in 1992.	A regulatory impact analysis is in progress and the Board anticipates considering the proposed regulation in the fall of 1993.
Distressed Loan Notification.	Would amend the regulations regarding the content of borrower rights notices for distressed loans.	The Board adopted the proposed rule in June 1993. It will be published for a 30-day public comment period in mid-July 1993.	The Board expects to vote on a final regulation in the fall of 1993.
Termination of Large Associations and Banks.	Would establish regulations under which a bank or large association could terminate its charter as provided for in the Farm Credit Act of 1971, as amended.	The Board adopted the proposed rule in February 1993. The comment period closed in April 1993. (58 FR 15099).	The Board will consider a resolicitation of public comments on the proposed regulation.

In a related matter, other financial regulators proposed to modify their appraisal rules, (Real Estate Appraisals, 58 FR 31878, June 4, 1993). The FCA Board has directed staff to (1) Analyze this proposal and report to the Board by July 15, 1993, on how the proposed amendments impact the regulated institutions and (2) recommend proposals appropriate to the FCS.

Information Requirements

Finally, the FCA believes that a key issue for the FCS is the data which must be provided by the FCS institutions to the FCA on a periodic basis. It has been some time since a comprehensive review of the reporting requirements has been undertaken. In some cases, this data is specifically required by statute. It should be noted that the FCA is in the very early stages of a review of information reporting requirements; nevertheless, we are interested in any preliminary comments you might have as they will assist us in planning our future activities.

In conclusion, the FCA believes that the efforts outlined above, in conjunction with those already underway, will work to improve the regulatory environment within which the FCS must operate by targeting areas for more focused study and revising rules where comments present strong evidence that an FCA requirement is unjustified.

Date: June 16, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–14583 Filed 6–22–93; 8:45 am]

BILLING CODE 6705–01–P

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12 CFR Part 615

[RIN 3052–AB44]

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes for public comment amendments to part 615 relating to the components of permanent capital for Farm Credit System (Farm Credit or System) banks and associations. These proposed regulations implement amendments to the Farm Credit Act of 1971 (1971 Act), made by the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act). The effect of the proposed regulations is to establish requirements for the agreement between a Farm Credit Bank (FCB) and its related direct lender associations specifying where the earnings held by the FCB and allocated to associations may be counted as permanent capital, specify how these earnings would be counted in the absence of an agreement, provide a date certain for the exclusion from capital of payments by Farm Credit institutions to the Farm Credit System Financial Assistance Corporation (FAC) made in connection with the repayment of Treasury-paid interest, and make other conforming changes to implement the statutory amendments.

DATES: Comments must be received by July 22, 1993.

ADDRESSES: Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested

parties in the Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: Section 4.3(a) of the 1971 Act requires the FCA to cause System institutions to achieve and maintain adequate capital by establishing minimum levels of permanent capital for System institutions. On September 28, 1988, the Board adopted final regulations amending 12 CFR part 615 that, among other things, established such minimum permanent capital standards. See 53 FR 39229 (October 6, 1988).

Section 615.5210 of those regulations sets forth the method for the computation of the permanent capital ratio. Paragraph (d)(2) provides that, until the end of 1997, an FCB and the direct lender associations in its district may adopt a districtwide plan specifying a percentage allocation of an association's investment in the bank between the bank and the association for the sole purpose of computing the permanent capital ratio. The regulation establishes what the minimum percentage allocation to the bank will be in the years 1993 through 1997. After 1997, all of the association's investment in the bank is considered to be capital of the bank in the permanent capital ratio computation.

On August 13, 1992, the FCA Board suspended those provisions of § 615.5210(d)(2) pertaining to the percentage allocation. See 57 FR 38250 (August 24, 1992). The suspension became effective on October 7, 1992. On October 28, 1992, the 1992 Act was enacted. Section 101 of the 1992 Act amended the definition of "permanent capital" in section 4.3A(a)(1)(B) of the 1971 Act to provide that "earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient." A further amendment to the statutory definition of permanent capital added subparagraph (E) in section 4.3A(a)(1), which authorizes the FCA to define as permanent capital "any debt or equity instruments or other accounts that the [FCA] determines appropriate to be considered permanent capital."

Section 301 of the 1992 Act added section 6.9(e)(3)(D) to the 1971 Act to require each bank to enter into or continue an agreement with the FAC under which the bank will make annual annuity-type payments to the FAC in connection with the Capital Preservation Agreements. Subparagraph (D)(ii) provides that the agreement "shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly."

Section 304 of the 1992 Act amended section 6.26(c)(5) of the 1971 Act to require banks to make annual annuity-type payments to the FAC in connection with the FAC's repayment of Treasury-paid interest. An FCB may (and must, if necessary to enable the bank to satisfy its obligations) pass on to its related associations all or part of the assessments "either directly, or indirectly through loan pricing or otherwise," based on the proportionate average accruing retail loan volumes for the preceding year. Subparagraph (G) of that section provides that, until the date that is 5 years prior to the date on which the FAC is required to repay the Secretary of the Treasury for Treasury-paid interest, *i.e.*, until September 27, 2005, all assessments paid by banks to the FAC for the purpose of repaying the Treasury-paid interest, and any part of the obligation to pay future assessments that is recognized as an expense on the books of any System bank or association, shall be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements. Furthermore, 100 percent of the expenses paid or booked will be treated as capital from now until September 27, 2000. In the subsequent 2 years, 60 percent and 30 percent, respectively, will be included; after September 27, 2002, no part of such payments or future payments will be included in capital.

To implement these statutory changes, the Board proposes the following amendments to the regulations:

A. Allocation Agreement

Under the amendments made by 1992 Act, FCBs and direct lender associations may continue to utilize the allocation agreements permitted by existing regulations, but they also have some flexibility to make other arrangements. In addition, the 1992 Act authorizes Federal land bank associations, as well as direct lender associations, to enter into agreements with the FCB.

1. *Individual association agreements.* Whereas the existing regulation requires the allocation plan to be on a districtwide basis, the 1992 Act authorizes each individual association to enter into an agreement with its affiliated bank. This means that the terms and conditions of the agreements to which the FCB is a party, particularly the term specifying a percentage allocation, may vary from association to association. For this reason, § 615.5210(e)(2)(ii)(D) of the proposed regulations provides that each agreement must be disclosed to all affiliated associations that are not parties to the agreement. The Board believes that such disclosure among all of these associations will result in an equitable treatment of all parties to the agreements.

The Board notes that neither the 1992 Act nor the proposed regulations would prohibit an FCB and its affiliated associations from entering into or continuing a districtwide agreement.

2. *Application of agreement to allocated equities only.* The allocation agreements permitted by the 1992 Act pertain to allocated earnings, not purchased equities. Therefore, § 615.5210(e)(2)(i) of the proposed regulation continues the existing requirement that all equities of an FCB that have been purchased by other Farm Credit institutions must be counted as capital by the FCB.

3. *Term of agreement.* The proposed regulation would permit agreements for a period of 1 or more years, to be entered into at least 30 days prior to, and commencing on the first day of, the second quarter of the bank's fiscal year. If no agreement is signed at least 30 days prior to the expiration of an existing agreement, and if neither party notifies the FCA of its objection, the existing allocation agreement would be automatically extended for 1 additional year. If one party does notify the FCA of its objection, the agreement would not be extended. Should this occur, the allocation would be determined according to the formula as discussed below.

4. *Amendments.* An agreement may not be amended more frequently than annually, unless the prior written approval of the FCA is received. The Board anticipates that it would grant such approval only under extraordinary circumstances, such as a reorganization or merger of the institutions involved. However, as described more fully below, the parties may be required to

amend their percentage allocation in order to enable a bank to make a payment to the FAC in connection with the Capital Preservation Agreements.

5. *Absence of agreement.* While the Board contemplates that FCBs and direct lender associations will enter into allocation agreements, some institutions may be unable to reach agreement. The existing regulation provides that, in the absence of an allocation agreement, 20 percent of the allocated investment shall be counted as permanent capital for the purpose of computing the permanent capital ratio of the FCB and the remaining 80 percent is counted as permanent capital of the association. This provision was originally intended to be in effect only from 1988 until the end of 1992. It is the Board's view that this allocation for nonagreeing associations is appropriate as a temporary arrangement, but that a permanent provision should be more flexible. Therefore, the Board proposes to replace the existing percentage allocation with a formula whose primary objective is to enable each institution to meet its minimum permanent capital requirement to the extent possible.

The proposed formula would first allot the allocated investment based on what each institution needs to bring its permanent capital ratio to 7 percent. Any remaining amount of allocated investment would then be equally divided between the bank and the association. However, in the event that it is not possible to bring the permanent capital ratios of the FCB and each nonagreeing association up to at least 7 percent, the bank would have priority in achieving the minimum capital requirement based on a *pro rata* allotment from nonagreeing associations.

In the absence of an agreement, there are good reasons for allocating the investment so that the bank reaches its minimum capital requirement. First, a failure of the FCB to meet its minimum permanent capital requirement could have a potential adverse impact on funding costs for the entire System. Second, ensuring service continuity within a district is important. There is no reason to disrupt the operations of an entire district when a limited number of associations fail to agree on an allotment formula and have an equity position below the regulatory minimum. Third, the failure of a FCB to meet minimum capital requirements could have an adverse impact on the operations of any agent Federal land bank association (FLBA) in the district. The prohibition on retirement of the FCB stock in such circumstances would mean that no pass-through stock purchased in connection with a loan made through an FLBA could be retired; consequently, the FLBA would probably be unable to retire a borrower's FLBA stock. Finally, there could also be an adverse impact on all the associations in the district if the FCB's permanent capital ratio dropped below 7 percent because the banks' Contractual Interbank Performance Agreement could require the FCB to make penalty payments to the FAC that may never be reimbursed. Thus, it is in the best interest of the System to have the capital allocated to the bank to the extent necessary to enable it to meet its minimum permanent capital requirements.

The Board recognizes that the inability of an association to meet its minimum permanent capital ratio could adversely affect the operations of that association, by for example, preventing the association from redeeming its stock, which could result in some borrower flight. Nonetheless, it is the Board's view that the potential detrimental effects on the district as a whole are greater when the FCB fails to meet its minimum permanent capital requirement than when individual associations fall below the minimum requirement.[1] Consequently, it is appropriate to prefer the FCB over individual associations when there is not enough capital for the FCB and all nonagreeing associations to have permanent capital ratios of at least 7 percent.

The proposed formula would operate as outlined in the following steps:

Step 1. The permanent capital ratio of the FCB would be calculated, including all of the allocated investments it may count as capital under existing allocation agreements but excluding the allocated investments of all nonagreeing associations. The permanent capital ratio of each nonagreeing association would be calculated excluding any of its allocated investment.

Step 2. If, under these calculations, the FCB's permanent capital ratio is 7 percent or above, the allocated investment of each nonagreeing association whose ratio is 7 percent or above would be evenly split between the FCB and the association. The allocated investment of each nonagreeing association whose ratio is below 7 percent would be attributed to the association until the association's ratio reaches 7 percent or all of the investment is attributed to the association, whichever occurs first, and any remaining investment would be evenly split between the FCB and the association.

Step 3. If the FCB's permanent capital ratio is below 7 percent when calculated according to step 1, a proportionate amount of each nonagreeing association's allocated investment would be attributed to the FCB sufficient to raise the FCB's capital ratio to 7 percent.[2] Then, with respect to each nonagreeing association, a sufficient amount of the allocated investment not yet attributed, if any, would be attributed to the association to raise the association's capital ratio to 7 percent or until all the remaining allocated investment is attributed, whichever occurs first. If there is any remaining allocated investment after the FCB and the nonagreeing association have each met the minimum capital requirements, such remainder would be divided evenly between the FCB and association for capital computation purposes.

The Board wishes to emphasize that the proposed allocation formula would be applied only to associations that have not entered into allocation agreements with the FCB. The formula has no direct impact on associations that have entered into agreements with the FCB and does not affect the allocations set forth in those agreements.

The Board also considered other formulas for determining where capital would be counted in the absence of an allocation agreement. One formula would, in effect, equalize the capital ratios of the FCB and the nonagreeing associations to the extent possible; the advantage of this option would be that it favors neither the bank nor the associations. Another formula would, like the formula in the proposed regulation, first provide that the FCB meets its minimum capital requirements when possible, but would also ensure that the largest possible number of nonagreeing associations meet their minimum capital requirements. In other words, this formula would potentially require a proportionately larger allotment to the FCB from well-capitalized associations than from poorly capitalized associations in order to enable such associations to keep their

[1] The Board notes that a large majority of associations currently meet the 7-percent capital requirement even when an amount of capital equal to their investment in the bank is excluded. Such associations are less likely to be affected than other associations by a formula that ultimately favors the bank.

[2] The total amount required for the FCB to reach the minimum capital ratio would be computed, as well as the percentage that amount represents of the total allocated investments of all nonagreeing associations. That percentage of each nonagreeing association's allocated investment would be attributed to the FCB.

permanent capital ratios above 7 percent.

In selecting the proposed formula, the Board has attempted to balance the various interests of the institutions involved, as well as the district as a whole, without making the allocation process too unwieldy. However, the Board recognizes that any means of determining where capital will be counted in the absence of an agreement may have the effect of providing incentives to one party or the other to enter into an agreement or to reject an agreement. Therefore, the Board specifically seeks comment on the proposed formula for the allocation and also seeks suggestions regarding other ways to allocate the capital in the absence of an agreement, such as, for example, using the alternative formulas described in the previous paragraph; mandating that the FCA shall make the decision as to where capital would be counted; or using a straight percentage allocation that would achieve the Board's objectives consistent with the Act. Should suggestions be made about other methods of allocation, the Board requests that the commenter provide any necessary procedural details.

6. *Assessments paid to the FAC in connection with the Capital Preservation Agreements.* The 1992 Act permits an FCB to skip a payment to the FAC in connection with the FAC's payment of the Capital Preservation Agreements if the payment would cause the bank to fail to meet its minimum permanent capital standards. If a payment is not made, there must be a recalculation of subsequent payments to make up for it. While the Board does not think it likely, an agreement could allot such a large percentage of the associations' investments to the associations that the bank would be unable to make—or would be able to avoid making—the annual payment to the FAC. Consequently, § 615.5210(e)(2)(ii)(G) of the proposed regulations provides that the bank and the association must re-allot the investment to enable the FCB to pay the assessment, provided that the association would still be able to meet its own minimum capital standards. The FCA Board may, at the request of one of the parties, waive this requirement. The FCA Board specifically seeks comments on this proposal.

7. *Other recipients.* The amendment to the definition of "permanent capital" refers to earnings allocated by a "System bank" to associations and "other recipients." Since FCBs allocate earnings to other financing institutions (OFIs), FCBs are now permitted to enter into agreements with affiliated OFIs specifying which institution counts the investment as permanent capital. Furthermore, the reference to "other recipients" could include not just OFI relationships, but also certain relationships between System institutions. The statutory term "System bank" could include a bank for cooperatives (BC) as well as an FCB, and the term "other recipient" could, arguably, include another System institution that is not an association. Thus, the new statutory language covers a situation where an FCB or a BC has a stock investment in another FCB or another BC.

Therefore, proposed § 615.5210(e)(3) provides that, when a System bank and an "other recipient" enter into an allocation agreement, the provisions that apply to an FCB/association agreement are also applicable to such agreement. However, in the absence of an agreement, 100 percent of the allocated investment would be included in the capital of the allocating bank.

B. Payments to the FAC

1. *Assessments paid to the FAC in connection with the Capital Preservation Agreements.* This is discussed under item 6 above.

2. *Assessments paid or booked as expenses in connection with Treasury-paid interest.* As described above, all assessments paid or booked to repay the FAC for Treasury-paid interest may be fully included as capital by banks or associations (where the bank has "passed through" the assessment) until September 2000, and part of the assessments are included in capital until 2002. Part or all of the assessments may be passed on by FCBs to their affiliated associations, either directly or indirectly (through loan-pricing or otherwise). If a bank passes on the cost of the assessment directly to an association, the portion of the bank's assessment that may be included in the association's capital (and that may not be included in the bank's capital) will be the amount paid by the association. The Board notes that, if the cost of the bank's assessment is passed on to the association indirectly, this amount must be reported in the Call Reports of both the bank and the association.

C. Definition of Permanent Capital

The Board proposes to revise the definition of permanent capital in existing § 615.5201(h) to implement the changes to the statutory definition of permanent capital made by the 1992 Act. As stated above, the FCA now has authority to define as permanent capital any debt or equity instruments or other accounts that it determines are appropriate to be considered as permanent capital. At this time, the Board does not believe that any debt or equity presently issued and outstanding, other than that already considered to be permanent capital, has the requisite "permanence" to be considered as permanent capital. However, it has provided in the proposed regulation that, if the FCA deems such inclusion appropriate on a case-by-case basis, financial assistance that may be provided in the future by the Farm Credit System Insurance Corporation (FCSIC), pursuant to the FCSIC's authority under section 5.61(a)(1) of the Act, will be considered to be permanent capital.

Furthermore, the Board is considering specifying by regulation that subordinated debt or other securities issued by a Farm Credit institution to the FCSIC will be considered to be permanent capital. The Board solicits comments on the appropriateness of designating these securities as permanent capital and, if so, what types of requirements and limitations might also be appropriate. The Board also seeks comments on whether there are other debt or equity instruments or other accounts, other than those issued to the FCSIC, that could appropriately be defined by regulation to be permanent capital.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26 of the Farm Credit Act; 12 U.S.C. 2013, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6; sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart H—Capital Adequacy

2. Section 615.5201 is amended by redesignating paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) as paragraphs (b), (c), (d), (e), (f), (g), (i), (j), (k), (l), (m), and (n) consecutively; adding new paragraphs (a) and (h); and

revising newly designated (j) to read as follows:

§ 615.5201 Definitions.

* * * * *

(a) *Allocated investment* means earnings allocated by a System bank to an association or other recipient and retained by the bank.

* * * * *

(h) *Nonagreeing association* means an association that has not entered into an allocation agreement with a Farm Credit Bank pursuant to § 615.5210(e).

* * * * *

(j) *Permanent capital* means—

(1) Current year retained earnings;

(2) Allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(3) All surplus;

(4) Stock issued by a System institution, except—

(i) Stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder;

(ii) Stock that is protected under section 4.9A of the Act or is otherwise not at risk;

(iii) Preferred stock issued to the Farm Credit System Financial Assistance Corporation to the extent it is issued to offset an impairment of equities protected under section 4.9A of the Act;

(iv) Farm Credit Bank equities required to be purchased by Federal land bank associations in connection with stock issued to borrowers that is protected under section 4.9A of the Act;

(v) Capital subject to revolvement, unless:

(A) The bylaws of the institution clearly provide that there is no express or implied right for such capital to be retired at the end of the revolvement cycle or at any other time; and

(B) The institution clearly states in the notice of allocation that such capital may only be retired at the sole discretion of the board in accordance with statutory and regulatory requirements and that no express or implied right to have such capital retired at the end of the revolvement cycle or at any other time is thereby granted;

(5) Payments to, or obligations to pay, the Farm Credit System Financial Assistance Corporation to the extent permitted by section 6.26(c)(5)(G) of the Act and § 615.5210(d); and

(6) Financial assistance provided by the Farm Credit System Insurance Corporation that the Farm Credit Administration determines appropriate to be considered permanent capital.

* * * * *

3. Section 615.5210 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (f); adding a new paragraph (d); and revising newly designated paragraphs (e)(2) and (e)(3) to read as follows:

§ 615.5210 Computation of the permanent capital ratio.

* * * * *

(d) Until September 27, 2002, payments of assessments to the Farm Credit System Financial Assistance Corporation, and any part of the obligation to pay future assessments to the Farm Credit System Financial Assistance Corporation that is recognized as an expense on the books of a bank or association, shall be included in the capital of such bank or association for the purposes of determining its compliance with regulatory capital requirements, to the extent allowed by section 6.26(c)(5)(G) of the Act. If the bank indirectly passes on all or part of the payments to its affiliated associations pursuant to section 6.26(c)(5)(D) of the Act, such amounts shall be included in the capital of the associations and shall not be included in the capital of the bank. After September 27, 2002, no payments of assessments or obligations to pay future assessments may be included in the capital of the bank or association.

(e) * * *

(2) Where a Farm Credit Bank is owned by one or more Farm Credit System institutions, the double counting of capital shall be eliminated in the following manner:

(i) All equities of a Farm Credit Bank that have been purchased by other Farm Credit institutions shall be considered to be permanent capital of the bank.

(ii) Each Farm Credit Bank and each of its affiliated associations may enter into an agreement that specifies, for the purpose of computing permanent capital only, a percentage allotment of the association's allocated investment between the bank and the association. The following conditions shall apply:

(A) The agreement shall be for a term of 1 or more years and shall become effective on the first day of the second quarter of the bank's fiscal year.

(B) The agreement shall be entered into at least 30 days prior to the beginning of the second quarter of the bank's fiscal year.

(C) The agreement may be amended according to its terms, but no more frequently than annually without the prior written approval of the Farm Credit Administration.

(D) A certified copy of the agreement, and any amendments thereto, shall be forwarded to the office of the Farm Credit Administration responsible for examining the institution within 3 days of adoption of the agreement or any amendments by the Farm Credit Bank and the association. A copy shall also be sent within 3 days of adoption to the bank's other affiliated associations.

(E) If the bank and the association have not entered into a new agreement at least 30 days prior to the expiration of an existing agreement, the existing agreement shall automatically be extended for another fiscal year, unless either party notifies the Farm Credit Administration of its objection to the extension prior to the beginning of such fiscal year.

(F) In the absence of an agreement between a Farm Credit Bank and one or more associations, or in the event that an agreement expires and at least one party objects to the continuation of the terms of its agreement, the following formula shall be applied with respect to the allocated investments held by those associations with which there is no agreement (nonagreeing associations), and shall not be applied to the allocated investments held by those associations with which the bank has an agreement (agreeing associations):

(*1*) The permanent capital ratio of the Farm Credit Bank shall be computed excluding the allocated investment from nonagreeing associations but including any allocated investments of agreeing associations that are attributed to the bank under such allocation agreements. The permanent capital ratio of each nonagreeing association shall be computed excluding its allocated investment in the bank.

(*2*) If the permanent capital ratio for the Farm Credit Bank calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is 7 percent or above, the allocated investment of each nonagreeing association whose permanent capital ratio calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is 7 percent or above shall be attributed 50 percent to the bank and 50 percent to the association.

(*3*) If the permanent capital of the Farm Credit Bank calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is 7 percent or above, the allocated investment of each nonagreeing association that is below 7 percent shall be attributed to

the association until the association's capital ratio reaches 7 percent or until all of the investment is attributed to the association, whichever occurs first. Any remaining unattributed allocated investment shall be attributed 50 percent to the Farm Credit Bank and 50 percent to the association.

(*4*) If the permanent capital of the Farm Credit Bank calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is less than 7 percent, the amount of additional capital needed by the bank to reach a permanent capital ratio of 7 percent shall be determined, and an amount of the allocated investment of each nonagreeing association shall be attributed to the Farm Credit Bank as follows:

(*i*) If the total of the allocated investments of all nonagreeing associations is greater than the additional capital needed by the bank, the allocated investment of each nonagreeing association shall be multiplied by a fraction whose numerator is the amount of capital needed by the bank and whose denominator is the total amount of allocated investments of the nonagreeing associations, and such amount shall be attributed to the bank. A sufficient amount of unattributed allocated investment shall then be attributed to each nonagreeing association to increase its permanent capital ratio to 7 percent, or until all such investment is attributed to the association, whichever occurs first. Any remaining unattributed allocated investment shall be attributed 50 percent to the bank and 50 percent to the nonagreeing association.

(*ii*) If the additional capital needed by the bank is greater than the total of the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations shall be attributed to the bank.

(G) If a payment or part of a payment to the Farm Credit System Financial Assistance Corporation pursuant to section 6.9(e)(3)(D)(ii) of the Act would cause a Farm Credit Bank to fall below its minimum permanent capital requirement, the bank and one or more associations shall amend their agreement to increase the allotment of the association's investment to the bank sufficiently to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. In the absence of an allocation agreement, the Farm Credit Administration shall require a revision of the percentage allotment sufficient to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. The Farm Credit Administration Board may, at the request of one or more of the institutions affected, waive the requirements of paragraph (e)(2)(ii)(G) of this section if the Board deems it is in the overall best interest of the institutions affected.

(3) A bank and a recipient, other than a direct lender association, of allocated earnings from such bank, may enter into an agreement specifying a percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement shall comply with the provisions of paragraph (e)(2) of this section, except that, in the absence of an agreement, the allocated investment shall be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of a bank that are purchased by a recipient shall be considered as permanent capital of the allocating bank.

* * * * *

Dated: June 15, 1993.

Curtis Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–14494 Filed 06–22–93; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–54–AD]

Airworthiness Directives; Aerospatiale Model ATR42–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200 and –300 series airplanes. This proposal would require modification of the autopilot disengagement wiring. This proposal is prompted by reports that flight crews attempted to use the pitch trim control while the autopilot was engaged, which caused the autopilot to move the elevator control in the opposite direction of trim movement. The actions specified by the proposed AD are intended to prevent a severe out-of-trim condition, which could lead to reduced controllability of the airplane.

DATES: Comments must be received by August 17, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–54–AD." The

postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Aerospatiale ATR42–200 and –300 series airplanes. The DGAC advises that there have been several instances in which the flight crew attempted to use the pitch trim control while the autopilot was engaged. This action can cause the autopilot to move the elevator control in the opposite direction of trim movement, and may cause a severe out-of-trim condition if the autopilot is later disconnected. This condition, if not corrected, could lead to reduced controllability of the airplane.

Aerospatiale has issued Service Bulletin ATR42–22–0012, dated April 2, 1990, and Revision 1, dated October 12, 1992, that describe procedures for modifying the autopilot disengagement wiring located at shelf 82VU. Modification of such wiring will reduce the effects of manual use of the pitch trim control while the autopilot is engaged. The DGAC classified this service bulletin as mandatory and issued French Airworthiness Directive 92–197–049(B), dated September 30, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the autopilot disengagement wiring. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 126 airplanes of U.S. registry would be affected by this AD. The FAA has been advised that all 126 affected airplanes have been modified in accordance with the requirements of this AD. Therefore, currently, this AD action imposes no additional economic burden on any U.S. operator.

However, should an unmodified airplane be imported and placed on the U.S. Register in the future, it would take approximately 4 work hours per airplane to accomplish the proposed actions, at an average labor rate of $55 per work hour. Required parts would be supplied by the manufacturer to the operators at no cost. Based on these figures, the total cost impact of the AD is estimated to be $220 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Docket 93–NM–54–AD.

Applicability: Model ATR42–200 and –300 series airplanes; serial numbers 3 through 179, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a severe out-of-trim condition, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the autopilot disengagement wiring located at shelf 82VU, in accordance with Aerospatiale Service Bulletin ATR42–22–0012, dated April 2, 1990; or Revision 1, dated October 12, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 17, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–14747 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 103, 129, 165, and 184

[Docket No. 88P–0030]

Beverages; Bottled Water; Consumer Surveys; Availability; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of two surveys concerning consumer perception of spring water which FDA received in response to a proposal that published in the **Federal Register** of January 5, 1993 (58 FR 393), to establish a standard of identity for bottled water. The Mountain Valley Spring Co. and the Crystal Geyser Water Co. submitted the surveys. FDA is reopening the comment period for 30 days to give interested persons a fair opportunity to comment specifically on these surveys.

DATES: Written comments by July 23, 1993.

ADDRESSES: Submit written comments and requests for single copies of the surveys to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments and requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist the branch in processing your requests. After the comment period shown above, copies of the surveys will be available at cost from the Freedom of Information Staff (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857. The surveys and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5112.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1993 (58 FR 393), FDA published a proposal to establish a standard of identity in proposed § 165.110 for bottled water. Among other things, the agency proposed to define "artesian water," "distilled water," "mineral water," "purified water," "spring water," and "well water." FDA proposed these actions in response to a petition submitted by the International Bottled Water Association. Interested persons were initially given until March 8, 1993, to comment on the proposal. In the **Federal Register** of March 9, 1993 (58 FR 13041), the comment period was extended to April 7, 1993.

FDA is announcing that it has received the results of two recent surveys by private companies pertaining to consumer perception of what constitutes spring water. The Mountain Valley Spring Co. submitted a report entitled "Consumer Research Report on Bottled Water" on April 7, 1993 (C302 in this docket). The Crystal Geyser Water Co. submitted a report entitled "Topline Analysis of Alpine Spring FDA Research" at a meeting with the agency on April 14, 1993 (MM5 in this docket).

FDA is reopening the comment period for 30 days to allow interested persons the opportunity to comment specifically on these surveys. Only comments pertaining to the surveys will be considered. FDA is taking this action because the Mountain Valley Spring Co. submitted its survey on the last day of the comment period, and the Crystal Geyser Water Co. submitted its survey after the comment period had ended. This action will not delay the issuance of a final rule.

Interested persons may, on or before July 23, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–14756 Filed 6–18–93; 10:29 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL–4669–6]

Wood Furniture Manufacturing Industry Negotiated Rulemaking Advisory Committee; Establishment and Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Establishment of advisory committee and notice of open meeting.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (FACA), EPA is giving notice of the establishment and first meeting of an advisory committee to develop specific recommendations with respect to rules for hazardous air pollutants (HAP's) under section 112 and control techniques guidelines (CTG's) to control volatile organic compounds (VOC's) under section 183 of the Clean Air Act, as amended. EPA has determined that the establishment of this committee is in the public interest and will assist the Agency in performing its duties under sections 112 and 183 of the Clean Air Act as amended. Copies of the Committee's charter have been filed with the appropriate committees of Congress and the Library of Congress in accordance with section 9(c) of FACA.

The Committee solicits anyone who believes their interest would be significantly affected by a rule and/or CTG for wood furniture manufacturing, who also believes that interest is not adequately represented on the Committee, to apply for membership on it.

DATES: The Committee will meet on July 8 and 9, 1993. The meeting will run from 9 a.m. until 5 p.m. on the first day, and from 8:30 a.m. until 3 p.m. on the second. Applications for membership must be postmarked by the close of business on July 23, 1993.

ADDRESSES: The meeting will be held at the Raleigh Marriott Crabtree Valley, 4500 Marriott Drive, Raleigh, NC 27612, (919) 781–7000.

A docket has been established for the advisory committee. Comments concerning the committee and its work should be submitted (in duplicate if possible) to Air Docket Section, Attention Docket A–93–10, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy should also be sent to Madeleine Strum, Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27111. This docket contains materials relevant to this advisory committee, and it may be inspected in room 1500M, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC, between 8:30 a.m. and noon, and 1:30 p.m. until 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Anyone wanting further information on the substantive matters related to the rule or CTG should call Madeleine Strum, Office of Air Quality Planning and Standards at 919–541–2383. Anyone wanting further information on administrative matters such as committee arrangements or procedures should contact the committee's independent co-facilitators, Susan Wildeau of John Lingelbach, at (303) 442–7367.

SUPPLEMENTARY INFORMATION: The subject of the negotiation is a proposed national Emission Standard for Hazardous Air Pollutants [NESHAP] targeting reductions in HAP's, and a CTG, to assist the States in achieving

VOC emission reductions from wood furniture manufacturing operations. The agency has conducted informal discussions to review emissions data, the cost of various compliance activities, and their economic impact. The discussions have gone well, and the participants have proposed developing specific recommendations to the agency concerning the regulations and CTG's under the CAAA. EPA now believes that using an advisory committee to make specific recommendations with respect to the Wood Furniture Industry rule and/or CTG would help the agency achieve its statutory mandate. It is therefore establishing the Wood Furniture Manufacturing Industry Negotiated Rulemaking Advisory Committee.

Background

The wood furniture industry is expected to include facilities that have operations which fall under the following SIC codes: 2434, 2511, 2512, 2519, 2521, and 2541. The scope will include consideration of traditional limitations, and market-based approaches.

The EPA has expended a considerable effort to develop a CTG for the industry. Chapters from a preliminary draft CTG were presented at a public hearing in 1991. In addition, the EPA has undertaken an extensive information gathering effort to characterize HAP emissions from the wood furniture industry for the purpose of developing a NESHAP.

Based on available data, the EPA estimates the wood furniture industry contributes on the order of 90,000 tons of HAPs per year nationwide, and 60,000 tons of VOC emissions in non-attainment areas. This NESHAP will achieve a reduction in HAP emissions, and the CTG will achieve reductions in VOC emissions in non-attainment areas.

A negotiated rulemaking, whereby development of the data base and regulatory approaches is carried out jointly with the industry, States, environmental groups, and other interested parties affords the opportunity to develop more innovative environmentally effective, and pragmatic approaches. In addition, it permits simultaneously developing the NESHAP and the CTG, two interrelated statutory requirements.

Statutory Provisions

The EPA is developing a NESHAP for the wood furniture industry under section 112 of the CAAA. Under section 112(d)(2), the EPA is charged to establish a NESHAP that requires "* * * the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies * * *" The wood furniture NESHAP is required to be finalized no later than November 1994.

Section 183(a) of the CAAA requires the EPA to develop 11 CTG's by November 1993. A CTG is a guidance document developed to assist the states in determining "reasonable available control technology" or RACT for a given source category. A State, through regulation, applies RACT to control VOC emissions from a particular source in an effort to bring the State's non-attainment areas into attainment of the national ambient air quality standard for ozone. Each CTG contains a "presumptive norm" for RACT for the specific source category, based on EPA's evaluation of the capabilities and problems general to that category. The CTG for the wood furniture industry is being developed as one of the 11 CTG's to help fulfill the requirements of the CAAA.

The Committee and Its Process

In early 1993, EPA contracted with professional convenors to help determine if the regulatory negotiation approach was feasible and desirable for rules impacting the wood furniture manufacturing industry. In addition to numerous individual contacts with potentially interested parties and interest groups, EPA held five public meetings: December 15, 16; January 26, 27; March 25, 26; May 4, 5; and June 3, 4. EPA and the meeting participants felt the exchanges were mutually beneficial. As a result, EPA now believes it is appropriate to charter an Advisory Committee to make specific regulatory recommendations for implementing sections 112 and 183 of the Clean Air Act with regard to the wood furniture manufacturing industry. EPA has therefore established the Wood Furniture Manufacturing Industry Negotiated Rulemaking Advisory Committee to do so.

The Negotiated Rulemaking Act of 1990 contemplates a "convening" process during which potential parties and issues are identified, publishing a notice of intent to form the committee, waiting 30 days for comments to be submitted responding to the notice, and only then proceeding with the establishment of the committee provided it meets the criteria of the Act. The convening process and five public meetings have accomplished those ends. Significantly affected public and interest groups have been identified, and the issues in controversy have been defined. The convening discussions and public meetings have enabled the agency to determine that the criteria for negotiating rules, as spelled out in the Negotiated Rulemaking Act and the ones that have guided EPA in the past are met for this rule—

- The National Emission Standard for Hazardous Air Pollutants (NESHAP) and CTG is needed, since they are *required* by the CAAA.
- A limited number of identifiable interests will be significantly affected by the rule. Those parties are large, medium and small sized manufacturers, coating manufacturers, environmental organizations, and State and local air pollution control officials.
- Representatives can be selected to adequately represent these interests, as reflected above.
- The interests are willing to negotiate in good faith to attempt to reach a consensus on a proposed rule and/or CTG. This committee is established to enable them to do just that.
- There is a reasonable likelihood that the committee will reach consensus on a proposed rule, and/or CTG within a reasonable time. This determination has been made following the data discussions, and hence is built on the developments to date.
- The use of the negotiation will not delay the development of the rule and/or CTG if time limits are placed on the negotiation. Indeed, its use will expedite it and the ultimate acceptance of the rule and/or CTG.

EPA is not proposing to issue a separate notice of intent to form a negotiated rulemaking committee for this rule. Given the evolution of this committee, the publication of such a notice would only slow down the rulemaking process, and its functions have either already been met or are provided for in this notice. Moreover, section 581 of the Act [Pub. L. 101–648, 11–29–90] specifically provides that its provisions are not mandatory.

The Act does anticipate outreach to ensure that people who were not contacted during the convening of the committee can come forward to explain why they believe they would be significantly affected and yet not represented on the committee or to argue why they believe the rule should not be negotiated As discussed below,

anyone who believes they meet these criteria are invited to apply for membership on the committee.

Committee Membership

Industry Representatives

Business and Institutional Furniture
William Deal, Bernhardt Furniture Company
Susan E. Perry, Business & Institution Furniture Manufacture Association
Kitchen Cabinets
Paul J. Eisele, Ph.D., MASCO Corporation
Richard Titus, Kitchen Cabinet Manufacture Association
Residential Furniture
Bill Sale, Broyhill Furniture
Mike Soots, Kincaid Furniture, Inc.
Coatings
G.M. Currier, AKZO Coatings Inc.
William Dorris, Lilly Industries
Andy Riedell, PPG Industries
Resins
John P. DeVido, Aqualo
Peter Nicholson, Rohm and Haas
Medium Sized Furniture Companies
Randall B. Shepard, McGuire Furniture
Small Business Representatives
Jack Burgess, Pridgen Cabinet Works, Inc.
David Rothermel, Stylecraft Corporation
John Zeltsman, Architectural Woodwork Institute

Federal Agencies

Jack Edwardson, Emission Standards Division, U.S. EPA

States

Terry Black, Planning Section, Pa. Dept. of Environmental Resources
Jon Heinrich, Wisconsin Department of Natural Resources
Alan Klimek, North Carolina Department of Environment
Gary Hunt, North Carolina Office of Waste Reduction

Environmental and Public Interest Groups

Freeman Allen, Sierra Club
Janet Vail, West Michigan Environmental Action Council
Stephen Wilcox, American Lung Association of North Carolina
Brian Morton, North Carolina Environmental Defense Fund

Application for Membership and Opportunity to Comment

Anyone who would like to comment on the wisdom of proceeding by negotiation is invited to do so. Anyone who believes they would be significantly affected by a National Emission Standard or CTG for the Wood Furniture Industry, and who believes their interest would not be adequately represented by the committee described above, is invited to apply for membership on the committee or to nominate someone else for membership. An application for membership should include:

1. The name of the applicant or nominee and a description of the interest(s) such person will represent.

2. Evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposes to represent.

3. A commitment that the applicant or nominee will actively participate in good faith in the development of the standards.

4. The reason that the members of the committee who are described above do not adequately represent the interests of the person submitting the application or nomination.

To be considered, any comments or applications must be received by the close of business on July 23, 1993. Send comments and applications to Madeleine Strum, Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711.

EPA will give full consideration to all comments, applications, and nominations. The decision to add a person to the committee will be based on whether an interest of that person will be significantly affected by the proposed rules, whether that interest is already adequately represented on the committee, and if not, whether the applicant or nominee would adequately represent it.

Schedule

The committee will meet on July 8 and 9, 1993 at the times and location indicated earlier in this notice. Additional meetings are scheduled for August 25–27 and October 21–22. We will announce the precise locations and starting and ending times of these meetings in separate advance notices. All meetings are open to the public without advance registration. Members of the public may attend, make statements during the meeting to the extent time permits, and submit written documents to the committee for its consideration. On each day the committee will work to fashion specific recommendations with regard to National Emission Standards and CTG for the Wood Furniture Manufacture Industry.

Dated: June 16, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–14584 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 86

[FRL–4670–5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Regulations Requiring On-Board Diagnostic Systems on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop and reopening of comment period.

SUMMARY: This notice announces that on July 14, 1993, the Environmental Protection Agency (EPA) will hold a public workshop to address certain issues that have been raised in connection with EPA's Notice of Proposed Rulemaking (NPRM) for On-Board Diagnostic Systems (OBD) that was published in the **Federal Register** on September 24, 1991. The public workshop is being conducted so that EPA and interested parties can discuss certain issues pertaining to the requirement of section 202(m)(5) of the Clean Air Act (CAA) that emission-related repair information be made available to "any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines." Specifically, the issues to be discussed will include the following: The use of the National Technical Information Service (NTIS) as a clearinghouse for service information; clarification of certain terms, including Programmable Read Only Memory (PROM) computer chips, engine calibration, component calibration, recalibration, reprogramming, data stream information, indirect information, functional control strategies, and bi-directional control; emission-related service information to be made available; the organization of service information in electronic format; and the availability of manufacturers' enhanced diagnostic equipment and the use of an electronic data interchange (EDI) system. This notice also announces that the docket in this proceeding shall be reopened for thirty days following the workshop for the filing of written comments pertaining to issues discussed at the workshop.

DATES: The workshop will convene at 9 a.m. on July 14, 1993, and will adjourn after the time necessary to complete the

presentations and discussion, but no later than the close of business on July 14, 1993. Persons interested in making presentations at the workshop should notify the Agency contact person listed below at least five days prior to the workshop so that a final agenda can be prepared. At the workshop, issues will be addressed individually in the order in which they appear in this notice. Persons who want to make presentations are asked to come prepared to address each issue separately and bring with them 50 copies of their presentations. Individual presentations on any one issue will be limited to ten minutes. Interested parties may submit written comments pertaining to the issues addressed at the public workshop on or before August 13, 1993.

ADDRESSES: The workshop will be held at the Domino's Farms Conference Facility, Ulrich Room, Lobby E, 24 Frank Lloyd Wright Dr., Ann Arbor, Michigan 48105, (313) 930–4258. Written comments must be sent in duplicate to: EPA Air Docket LE–131, Attention: Docket No. A–90–35, U.S. Environmental Protection Agency, room M–1500, 401 M Street SW., Washington, DC 20460, (202) 382–7548. This docket is located at the above address on the first floor of Waterside Mall and is open for public inspection weekdays from 8:30 to 12 noon and from 1:30 p.m. to 3:30 p.m. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying services.

FOR FURTHER INFORMATION CONTACT: Cheryl F. Adelman, Certification Division, U.S. EPA National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668–4434.

SUPPLEMENTARY INFORMATION: EPA is holding this workshop to provide EPA and the public with an opportunity to further discuss EPA's proposals regarding certain issues related to the availability of emission-related service, diagnostic and repair information, and for the public to offer suggestions or alternatives to EPA's proposals. These issues were discussed previously at a public hearing that was held on November 6, 1991, and in a workshop held on June 30, 1992. Copies of the transcripts of the hearing and the workshop are available in the docket. A court reporter will be present at the workshop announced here to make a written transcript of the proceedings and a copy will be placed in the docket following the workshop.

1. Background

Section 202(m) of the CAA directs EPA to promulgate a rule that requires all light-duty vehicles and light-duty trucks manufactured in model years 1994 and thereafter to contain an on-board diagnostic (OBD) system which will monitor emission-related components for malfunction or deterioration. To assure the repair and service industry will have the information needed to perform necessary emission-related repairs, section 202(m)(5) of the CAA directs EPA to promulgate regulations that require "manufacturers to provide promptly to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines * * * any and all information needed to make use of the emission control diagnostics system * * * and such other information including instructions for making emission-related diagnosis and repairs." On September 24, 1991, EPA published an NPRM in the Federal Register proposing regulations to implement section 202(m) of the Act, including regulations to implement section (202)(m)(5) of the Act (56 FR 48272). Based on the comments received in response to both the proposal and the June 30 workshop, EPA believes that certain issues related to the proposed regulations implementing section 202(m)(5) require clarification by EPA and a further opportunity for public comment.[1] These issues will be discussed below.

First, EPA requests comment on the use of the National Technical Information Service (NTIS) as a clearinghouse for service information. EPA received numerous comments regarding the use of an information clearinghouse to distribute information. While several manufacturers and one information publisher opposed the use of an information clearinghouse, a few manufacturers and many sectors of the aftermarket supported the establishment of a clearinghouse.

Second, EPA requests comment on the definitions and/or descriptions of certain terms used throughout the NPRM. These terms include the following: PROM computer chips; engine calibration; component calibration; recalibration; reprogramming; data stream information; functional control strategies; bi-directional control; and indirect information. Based on the comments received, EPA believes that these terms warrant further clarification to ensure that there is a uniform understanding throughout the automotive industry as to their meaning in the context of this rulemaking. Such clarification will also help reduce questions regarding what service, repair and diagnostic information vehicle manufacturers are required to make available pursuant to section 202(m)(5) of the CAA.

Third, EPA requests comment on the extent of emission related service information to be provided by vehicle manufacturers to the aftermarket. Based on comments received, EPA believes that some confusion exists within the industry as to the systems, components and parts for which emission-related information must be made available. Clarification is needed to ensure that the aftermarket receives all of the information needed to service, diagnose and repair emission-related problems.

EPA proposes that emission-related service, diagnostic and repair information would include, but not be limited to, any system, component or part of a vehicle that controls emissions and any system, components and/or part associated with the powertrain system, including, but not limited to, the fuel system and ignition system. Information would also have to be provided for any system, component, or part that could have a reasonably foreseeable impact on emissions, such as transmission systems.

Fourth, EPA requests comment on issues related to the organization of service information in electronic format. First, EPA requests comment on whether it should wait to adopt SAE recommended practice J2008 when it is finalized or whether EPA should develop its own electronic format for the organization of service information. EPA is concerned that delays in the adoption of J2008 could impede the conversion of information to an electronic format. Second, in accordance with section 202(m)(5), vehicle manufacturers are required to provide the same information to the aftermarket as they provide to their dealerships. Therefore, it is proposed that if vehicle manufacturers "deeply tag" the electronic service information provided to their dealerships, i.e., provide information at a more specific level than the organizational level required by J2008, they will be required to provide the same "deeply tagged" information to the aftermarket.

Last, EPA requests comment on whether each vehicle manufacturer should be required to make available to the aftermarket its enhanced diagnostic equipment. Technicians who use enhanced diagnostic equipment will be

[1] A Final Rule implementing the remainder of section 202(m) was published in the Federal Register on February 19, 1993 (58 FR 9468).

able to diagnose and repair vehicles more effectively and efficiently than technicians who do not have such equipment. Therefore, EPA believes that all technicians should have access to enhanced diagnostic equipment. EPA also believes that vehicle manufacturers should have the option of providing repair and diagnostic information through an EDI or similar system. EDI is a means of transmitting business transactions between computers in standard data formats.

A. The NTIS as an Information Clearinghouse

The proposed regulations require manufacturers to ensure that emission-related service and repair information, whether distributed by the manufacturer or an intermediary, is reasonably accessible to all persons who service and repair motor vehicles. In response to this proposal, EPA received several comments on the use of a clearinghouse to receive and distribute service information. While some commenters opposed the use of an information clearinghouse, a few manufacturers and many sectors of the aftermarket (e.g., independent technicians) supported the establishment of a clearinghouse. EPA believes that some of the adverse comments indicated that the commenters had concerns as to the entity that would serve as the clearinghouse and whether that entity could adequately handle the large volumes of rapidly changing information.

EPA believes that the use of a clearinghouse would be beneficial to the Agency, the vehicle manufacturers, and the aftermarket. A clearinghouse would enable EPA to verify, by going to one source, that manufacturers are providing the required information. As discussed below, vehicle manufacturers would benefit from the use of a clearinghouse as it would eliminate or modify several of the responsibilities proposed to be required of the manufacturers. A clearinghouse would also benefit the aftermarket as the aftermarket would know where to obtain information needed to service vehicles.

EPA proposes the use of the NTIS as a clearinghouse for service information. The NTIS is a self-sustaining clearinghouse established by the U.S. Department of Commerce. It is the central source for the public sale of U.S. Government-sponsored research, development, and engineering reports, and for sales of foreign technical reports and other analyses prepared by national and local government agencies and their contractors or grantees. It has the capacity to collect, reproduce and distribute the large quantity of service information generated by the vehicle manufacturers.

Vehicle manufacturers would be required to provide initial service, repair, diagnostic and parts information to the NTIS within thirty days of providing it to their franchised dealerships or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Service, repair, diagnostic and parts information, such as technical service bulletins and troubleshooting manuals, issued to dealerships during any subsequent thirty day period would be sent to the NTIS at the end of each such thirty day period.

The NTIS would not amend or otherwise alter the service information it receives prior to distribution—it would only reproduce information in the form in which it was received. As the NTIS' per page reproduction costs are reduced as the volume of information requested increases, the NTIS may require that the public request information in relatively complete sets. For example, for manuals, this could mean that a purchaser must request at least a chapter from a manual or an entire manual. For technical service bulletins, purchasers may have to request the entire bulletin.

To determine what information the NTIS has available, purchasers could either access the NTIS' on-line bulletin board or request a printed list. In the case of printed materials, the cost charged by the NTIS for each information request would be related to the number of pages reproduced.

Each vehicle manufacturer would be required to provide one copy of all information required under the regulations to the NTIS. EPA is proposing that each manufacturer would be required to provide the information to the NTIS free of charge pursuant to a copyright release or other agreement. Vehicle manufacturers could receive royalties for subsequent distribution of the information by the NTIS based on prearranged agreements.

The workshop will allow interested parties the opportunity to present ideas regarding possible royalty arrangements for purchases of information from the NTIS by end users, such as independent technicians, and by intermediaries who intend to condense or otherwise alter the information for resale. For example, where the information is sold to an intermediary who resells the information, the royalty arrangement could be between the intermediary and the vehicle manufacturer and could be at a different percentage than that for information sold by the NTIS to an end user. Another option would be to have the NTIS only provide information to end users, while vehicle manufacturers would provide information directly to intermediaries under separate arrangements. The workshop will allow interested parties the opportunity to present ideas regarding whether the amount of the royalty should be tied to certain factors, such as the format in which the information is provided to the NTIS and the number of requests for a vehicle manufacturer's materials.

By using the NTIS as a clearinghouse, several requirements which were proposed to be the responsibility of the vehicle manufacturers would be deleted or amended. First, vehicle manufacturers would not be responsible for information distributed by intermediaries or other parties. This is due to the fact that all persons would have access to the NTIS which would have a complete library of information. Second, vehicle manufacturers would not be required to continually inform the aftermarket about the availability of their service information through advertisements or other efforts, since the aftermarket would, within a short period of time, become aware through their associations or other channels that service information can be obtained from the NTIS. Third, by using the NTIS as a clearinghouse, vehicle manufacturers would not be required to submit a detailed certification plan. EPA and other interested parties would be able to determine whether the required information is being made available by reviewing the information supplied to one source, the NTIS. Fourth, the requirement that vehicle manufacturers provide information in a timely manner would be satisfied by providing information to the NTIS on the designated schedule as described above. Last, the requirement that information be provided at a reasonable cost could, at least in part, be addressed by the NTIS' sale of information. Whether the cost requirement would be satisfied depends on whether and to what extent royalties are paid to vehicle manufacturers and the ability of the NTIS to provide its services at an affordable price, taking into consideration the amount of information requested by various parties.

Although EPA would require submission of information to the NTIS, vehicle manufacturers would not be precluded from providing service information through any other distribution mechanism. Manufacturers would still have the option of selling information directly to intermediaries, dealerships or the aftermarket. The

workshop will allow interested parties the opportunity to present their ideas regarding the use of the NTIS as an information clearinghouse.

B. Descriptions/Definitions

At the time the NPRM was published, EPA believed that certain terms used in the NPRM had descriptions and/or definitions that were widely recognized and accepted throughout the automotive industry. These terms include the following: PROM computer chips; engine calibration; component calibration; recalibration; reprogramming; data stream information; functional control strategies; bi-directional control; and indirect information.

Based on the comments received, however, it appears that there is some confusion within certain sectors of the industry as to the meaning of these terms. As a result, EPA believes some confusion exists as to the service information that is required to be provided pursuant to section 202(m)(5) and service information that is proprietary. To eliminate such confusion, EPA is proposing descriptions and/or definitions for these terms to ensure that there is a uniform understanding throughout the automotive industry as to the information that vehicle manufacturers will be required to make available.

In describing and/or defining the terms below, EPA has indicated that it believes certain categories of information are proprietary. The workshop will allow interested parties the opportunity to present their ideas as to which of the following terms include proprietary information, what that proprietary information is, why it is or isn't proprietary, and why the information should or shouldn't be made available.

PROM Computer Chips: PROM is a form of memory for a vehicle's engine control computer ("module"). It is stored on a computer chip within the module and contains the instructions the module uses for operating many of the engine systems (e.g., fuel, spark, and emission). The instructions in a PROM consist of preset values and algorithms and are permanently stored (i.e., unchangeable) within the computer chip.

Erasable PROMs (EPROM) are the same as PROMs, except that the preset values and algorithms found in the instructions can be erased and replaced with new values. An EPROM can only be erased by removing it from a vehicle and exposing it to ultraviolet light.

Electronically Erasable PROMs (EEPROM) are the same as an EPROM, except that the preset values and algorithms can be erased and replaced electronically. The values and algorithms on EEPROMs can be completely or selectively erased.

"Flash" Electronically Erasable PROMs ("Flash" EEPROM) are the same as EPROMs, except that all information contained in the computer chip, including the instructions (values and algorithms), are erased and replaced electronically, rather than by ultraviolet light.

Engine Calibration: An engine calibration is the set of instructions the module uses for operating many of the engine systems (e.g., fuel, spark, and emission). These instructions are made up of preset values and algorithms that are located in a computer chip. The preset values are normally in the form of look-up tables. Look-up tables are tables that typically list a set of variables or values (i.e., X and Y) that express some type of relationship between the values. An example of a look-up table is a table for cold engine starting that compares fuel injector pulsewidth values (X) with engine temperature values (Y). The module uses the preset calibration values along with predetermined algorithms (i.e., equations) in processing input data from various engine sensors to determine instructions to be sent to various vehicle actuators, e.g., fuel injectors, EGR valves, etc. Pursuant to sections 202(m)(5) and 208(c) of the CAA, engine calibrations are proprietary, unless that information is made available by vehicle manufacturers to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

Component Calibrations: Component calibrations are the mechanical, electrical or electromechanical attributes of a component necessary for that component to perform its specific design function. This also includes a description of components' specifications or physical attributes, e.g., size, shape, material, etc. An example of a component calibration for a Manifold Absolute Pressure sensor would include a curve of required voltage output with tolerances versus engine manifold vacuums (i.e., the module would interpret a specific voltage level as a particular manifold vacuum level).

Recalibration: Recalibration is the act of revising the preset values and/or algorithms for an existing engine calibration in a particular vehicle model/engine configuration. An example of a recalibration would be a change made to the existing calibration for vehicle models/engine configurations experiencing start-up problems during excessively cold weather. The recalibration would change some of the pre-set values for a specific look-up table that compares the amount of fuel injector pulsewidth with engine coolant temperature. By changing the calibration so that a longer pulsewidth occurs at a specific temperature, additional fuel will be added at the engine coolant temperature where the start-up problem occurs and alleviate the problem.

Recalibrations are design changes to vehicle model/engine configurations performed by engineers at engineering facilities, not changes to specific vehicles performed at service centers. Vehicle manufacturers typically develop recalibrations to address driveability or emission problems. Some vehicle manufacturers and aftermarket part manufacturers also develop recalibrations to enhance vehicle performance. Pursuant to sections 202(m)(5) and 208(c), recalibrations are proprietary, unless that information is made available by vehicle manufacturers to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

Reprogramming: Reprogramming is the act of installing a "new" engine calibration (i.e., a recalibration) into the module of a specific vehicle. If the calibration exists on a PROM computer chip, it means the physical removal of the existing chip and replacing it with a chip that has the "new" calibration or the complete replacement of the module with a new module that contains the new PROM and its calibration. To change the engine calibration on EEPROM or "Flash" EEPROM computer chips, the calibration must be erased and replaced electronically. No physical hardware changes are required to reprogram a recalibration into an EEPROM or "Flash" EEPROM.

Data Stream Information: Data stream information are messages transmitted between a network of modules and/or intelligent sensors (i.e., a sensor that contains and is controlled by its own module) connected in parallel with either one or two communication wires. Messages on the communication wires can be broadcast by any module or intelligent sensor.

Data stream information generally consists of messages and parameters originated within the vehicle by a module or intelligent sensors. The information is broadcast over the communication wires for use by other modules (e.g., chassis, transmission, etc.) to conduct normal vehicle operation or for use by diagnostic tools.

Data stream information does not include engine calibration related information.

Functional Control Strategies: Functional control strategies are descriptions of how and when various engine systems operate. Typically, it is a written explanation or flow diagram that describes the interaction of the module and the various sensors and actuators as proscribed by the engine calibration. An example of a functional control strategy would be that for a particular fuel system, the fuel system does not go into closed-loop operation until: (1) The engine coolant temperature has reached 180F; (2) the module observes an active oxygen sensor signal; (3) and 30 seconds has elapsed after reaching that temperature.

Bi-Directional Control: Bi-directional control is the capability of a diagnostic tool to send messages on the data bus that temporarily overrides the module's control over a sensor or actuator and gives control to the diagnostic tool operator. An example of bi-directional control is the ability to increase or decrease the idle speed by using the diagnostic tool to vary the idle by-pass motor. This allows a technician to quickly verify that the idle by-pass motor responds to commands from the module. Bi-directional controls do not create permanent changes to engine or component calibrations.

Indirect Information: Indirect information is any information that is not specifically contained in the service literature, but is contained in items such as parts or other equipment provided to franchised dealers (or others).

The workshop will provide interested parties the opportunity to comment on these definitions and descriptions.

C. Emission-Related Service Information

Based on the comments received in response to the NPRM and the June 30, 1992 workshop, EPA believes that clarification is warranted as to the systems, components and parts for which emission-related service, diagnostic and repair information must be provided by the vehicle manufacturers to the aftermarket. For purposes of this rule, EPA proposes that emission-related service, diagnostic and repair information would include, but not be limited to, any system, component or part of a vehicle that controls emissions and any system, components and/or part associated with the powertrain system, including, but not limited to, the fuel system and ignition system. Information would also have to be provided for any system, component, or part that could have a reasonably foreseeable impact on emissions, such as transmission systems.

In addition, EPA will monitor the results of Inspection and Maintenance programs[2] for failures resulting from systems, components, or parts other than those described here. If EPA determines that a substantial number of I/M failures are occurring due to systems, components, or parts other than those described here, the extent of emission-related service information will be expanded in a subsequent rulemaking to include such items.

D. Electronic Format

EPA proposed that beginning in model year 1996 vehicle manufacturers would be required to use the service information format being developed by SAE. Entitled "Recommended Organization of Service Information" (J2008), this format establishes a recommended practice for organizing service information within an electronic data base.

Due to various factors, SAE has not yet adopted J2008. EPA anticipates that SAE will adopt J2008 by mid-1994. If J2008 is adopted in a form that meets the needs of EPA, EPA would propose to incorporate J2008 into the service information regulations after further notice and comment. However, if J2008 is not adopted by mid-1994, or if the final version of J2008 does not meet the needs of EPA, EPA may propose to adopt its own format that vehicle manufacturers would be required to follow. EPA believes that such action could be necessary to prevent delays in the conversion of service information to an electronic format.

Further, in accordance with section 202(m)(5), vehicle manufacturers are required to provide the same information to the aftermarket as they provide to their dealerships. Therefore, in the rulemaking specifying whether J2008 or another electronic format will be required, EPA will propose that if vehicle manufacturers "deeply tag" the electronic service information provided to their dealerships, i.e., provide information at a more specific level than is required under J2008, they will be required to provide the same "deeply tagged" information to the aftermarket.

The workshop will provide interested parties the opportunity to present suggestions regarding the adoption of J2008 and the additional requirement for aftermarket distribution of "deeply tagged" information.

[2] 56 FR 52950, November 5, 1992.

E. Availability of Enhanced Diagnostic Equipment

According to section 202(m)(5) of the CAA, emission-related information provided by vehicle manufacturers indirectly to franchised dealers must also be provided to any person engaged in the repairing or servicing of motor vehicles. Some vehicle manufacturers are or will be providing their dealers the ability to diagnose malfunctions and/or reprogram vehicle modules via enhanced diagnostic equipment. This equipment will not allow dealers to view the recalibrations, but will allow them to reprogram vehicles using the recalibrations.

EPA believes that the enhanced diagnostic equipment provides franchised dealers indirectly with information that is needed to make emission-related diagnosis and repairs. EPA believes that vehicle manufacturers should provide this information to the aftermarket in the same form in which it is provided to franchised dealers. Therefore, EPA proposes to require that vehicle manufacturers offer their enhanced diagnostic equipment for sale to the aftermarket. This would enable vehicle manufacturers to comply with the requirements of section 202(m)(5) that information be made available to the aftermarket if it is made available to dealerships or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines while simultaneously protecting the proprietary interest of the vehicle manufacturers. It would also provide the aftermarket with the same capabilities as dealerships without divulging proprietary engine calibrations or recalibrations.

EPA proposes that manufacturers' enhanced diagnostic equipment must be made available to the aftermarket at the same price at which it is sold to authorized dealerships. As EPA discussed in the September 24, 1991 NPRM, the requirement that information be made available to the aftermarket entails a corollary requirement that the information be made available at a reasonable price. In this case, EPA believes that a reasonable price to charge the aftermarket is the same price at which the equipment is offered to franchised dealerships.

Based on previous comments provided to EPA, vehicle manufacturers' enhanced diagnostic equipment is sold to dealerships independent of their franchise agreements. Therefore, the cost of such equipment can be readily determined. If this is not the case for some manufacturers, the workshop will provide an opportunity for those

manufacturers to provide suggestions for determining the price of their equipment. EPA proposes to give vehicle manufacturers a one-year lead time to prepare for aftermarket sales of enhanced equipment.

EPA expects that dealerships will provide effective and timely reprogramming services to independent technicians who elect not to purchase vehicle manufacturer enhanced diagnostic equipment.

EPA also proposes that vehicle manufacturers should have the option of providing service, repair and diagnostic information through an EDI or similar system.

II. Issues

EPA believes that given the issues discussed above, the following subject areas are likely to be discussed at the workshop:

—Factors to be considered in using NTIS as a clearinghouse for service information.

—The extent to which vehicle manufacturers should receive royalties from the NTIS (to ensure that the cost of information remains reasonable and, therefore, available but to avoid unreasonable interference with manufacturers' copyright protection).

—Descriptions and definitions of terms.

—Exactly what information is proprietary and reasons why such information should or should not be considered proprietary.

—Adoption of J2008.

—Providing deeply tagged information to the aftermarket.

—Availability of vehicle manufacturers' enhanced diagnostic equipment.

—Other issues that EPA may identify.

III. Format of Workshop

The workshop will be conducted informally. EPA will make a presentation highlighting the information availability provisions in the September 1991 NPRM. After EPA's presentation, attendees will be encouraged to make oral presentations and participate in a discussion of issues in the order that they are presented in this workshop notice. A court reporter will be present to make a written transcript of the proceedings. A copy of the transcript and all documents received at the workshop will be placed in the docket. The docket in this proceeding shall be reopened for thirty days following the workshop for comments pertaining to issues discussed at the workshop.

Dated: June 17, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–14812 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–4668–4]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 15

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") proposes to add new sites to the NPL. This 15th proposed revision to the NPL includes 7 sites in the General Superfund section and 10 in the Federal Facilities section. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This action does not affect the 1,199 sites currently listed on the NPL (1,076 in the General Superfund Section and 123 in the Federal Facilities Section). However, it does increase the number of proposed sites to 71 (51 in the General Superfund Section and 20 in the Federal Facilities Section). Final and proposed sites now total 1,270.

DATES: Comments must be submitted on or before July 23, 1993, for South Weymouth Naval Air Station (Weymouth, Massachusetts), Materials Technology Laboratory (U.S. Army, Watertown, Massachusetts), and Portsmouth Naval Shipyard (Kittery, Maine). For the remaining sites in this proposal, comments must be submitted on or before August 23, 1993.

ADDRESSES: Mail original and three copies of comments (no facsimiles) to Docket Coordinator, Headquarters; U.S. EPA CERCLA Docket Office; OS–245; Waterside Mall; 401 M Street, SW., Washington, DC 20460; 202/260–3046. For additional Docket addresses and further details on their contents, see Section I of the "Supplementary Information" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS–5204G), U.S. Environmental Protection Agency, 401 M Street, SW. Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 920–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, 100 stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to

as the "Superfund") and financed by other persons are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which is appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances, pollutants, and contaminants to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA promulgates a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on October 14, 1992 (57 FR 47180).

The NPL includes two sections, one of sites being evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining if the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 50 sites from the General Superfund Section of the NPL, most recently the Woodbury Chemical Co., Commerce City, Colorado (58 FR 15287, March 22, 1993).

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL. Inclusion of a site on the CCL has no legal significance.

In addition to the 50 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 112 sites are also in the NPL CCL, all but one from the General Superfund Section. Thus, as of April 1992, the CCL consists of 161 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of March 30, 1993, EPA had conducted 568 removal actions at NPL sites, and 1,921 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 17 sites to the NPL. The General Superfund Section includes 1,076 sites, and the Federal Facilities Section includes 123 sites, for a total of 1,199 sites on the NPL. Final and proposed sites now total 1,270. These numbers reflect EPA's decision to remove the Hevi-Duty Electric Co., in Goldsboro, North Carolina, and the Court's removal of the Tex-Tin Corp. site, in Texas City, Texas, from the NPL.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours. Note that the Headquarters docket, although it will be moving during the comment period, will remain open for viewing of sites included in this rule.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS–245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260–3046.

Ellen Culhane, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–5729.

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, 212/264–6696.

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7904.

Beverly Fulwood, Region 4, U.S. EPA Library, Room G–6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347–4216.

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7-J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214.

Bart Canellas, Region 6, U.S. EPA 1445 Ross Avenue, Mail Code 6H-MA, Dallas, TX 75202–2733, 214/655–6740.

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7241.

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598.

Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988). EPA will make final listing decision after considering the relevant comments received during the comment period.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 57 FR 4824 (February 7, 1992).) Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment ("PA"), is a low-cost review of existing information to determine if the site poses a threat to public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA will generally perform a more extensive study called the Site Inspection ("SI"). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites which warrant placement on the NPL and further study. EPA may perform removal actions at any time during the process. To date EPA has completed approximately 34,000 PAs and approximately 17,000 SIs.

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although the ranking of sites by HRS scores is considered, it does not, by itself, determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to

determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(b)(2), 55 FR 8845, March 8, 1990). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those presenting significant risk or sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study ("RI/FS") that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). It takes into account the amount of contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries. The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge of the geographic extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the contamination at a site reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

Limitations on Payment of Claims for Response Actions

Sections 111(a)(2) and 122(b)(1) of CERCLA authorize the Fund to reimburse certain parties for necessary costs of performing a response action. As is described in more detail at 58 FR 5460 (January 21, 1993), 40 CFR part 307, there are two major limitations placed on the payment of claims for response actions. First, only private parties, certain potentially responsible parties (including States and political subdivisions), and certain foreign entities are eligible to file such claims. Second, all response actions under sections 111(a)(2) and 122(b)(1) must receive prior approval, or "preauthorization," from EPA.

III. Contents of This Proposed Rule

Table 1 identifies the 7 NPL sites in the General Superfund Section and table 2 identifies the 10 NPL sites in the Federal Facilities Section being proposed in this rule. Both tables follow this preamble. All these sites are proposed based on HRS scores of 28.50 or above. The sites in table 1 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the General Superfund Section of the NPL. Sites in the Federal Facilities Section are also presented by group number based on groups of 50 sites in the General Superfund Section.

Statutory Requirements

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. 6901–6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

EPA's policy is that non-Federal sites subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in the past (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add one site to the General Superfund Section of the NPL that may be subject to RCRA Subtitle C corrective action authorities,

the Alcoa (Point Comfort)/Lavaca Bay site in Point, Comfort, Texas. Material has been placed in the public docket establishing that portions of the site formerly were operated as an "interim status" facility under RCRA (referred to in the NPL/RCRA deferral policy as "converters), and that the full extent of EPA's authority to address off-site contamination under RCRA is untested. Listing of the Lavaca Bay site on the NPL under these circumstances is consistent with EPA's NPL/RCRA deferral policy.

Releases From Federal Facility Sites

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

This rule proposes to add ten sites to the Federal Facilities Section of the NPL.

IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites to the NPL. EPA believes that the kinds of economic effects associated with this proposed revision to the NPL are generally similar to those identified in the regulatory impact analysis ("RIA") prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

This proposed rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine any party's liability for site response costs. Costs that arise out of responses at sites in the General Superfund Section result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs that may be associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed by a search for potentially responsible parties and an RI/FS to determine if remedial actions will be undertaken at a site. Selection of a remedial alternative, and design and construction of that alternative, may follow completion of the RI/FS, and operation and maintenance ("O&M") activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and remedial action, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Trust Fund-financed actions is governed by CERCLA section 104(c). For nonpublicly-operated sites, EPA will pay from the Trust Fund for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For sites operated by a State or political subdivision, the State's share is at least 50% of all response costs at the site, including the cost associated with the RI/FS, remedial design, and construction and implementation of the remedial action selected. After construction of the remedy is complete, costs fall into two categories:

- For restoration of ground water and surface water, EPA will pay from the Trust Fund a share of the start-up costs according to the cost-allocation criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3). After that, the State assumes all O&M costs. 40 CFR 300.435 (f)(1).
- For other cleanups, EPA will pay from the Trust Fund a share of the costs of a remedy according to the cost-allocation criteria in the previous paragraph until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	1,300,000
Remedial Design	1,500,000
Remedial Action	[3] 25,000,000
Net present value of O&M [2]	3,770,000

[1] 1988 U.S. Dollars
[2] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate
[3] Includes State cost-share

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Possible costs to States associated with today's proposed rule for Trust Fund-financed response action arise from the required State cost-share of:

(1) For privately owned sites at which remedial action involving treatment to restore ground and surface water quality are undertaken, 10% of the cost of constructing the remedy, and 10% of the cost of operating the remedy for a period up to 10 years after the remedy becomes operational and functional;

(2) For privately-owned sites at which other remedial actions are undertaken, 10% of the cost of all remedial action, and 10% of costs incurred within one year after remedial action is complete to ensure that the remedy is operational and functional; and

(3) For sites publicly-operated by a State or political subdivision at which response actions are undertaken, at least 50% of the cost of all response actions. States must assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-operated and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately $28 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on

past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $25 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this proposed amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the National level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's proposal to place additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Proposing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NCP, it is not a typical regulatory change since it does not automatically impose costs. As stated above, proposing sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

NATIONAL PRIORITIES LIST PROPOSED RULE NO. 15

General Superfund Section

State	Site name	City/county	NPLGr[1]
MS	Chemfax, Inc.	Gulfport	11
OH	North Sanitary Landfill	Dayton	4/5
OR	McCormick & Baxter Creosoting Co. (Portland Plant)	Portland	1
PA	UGI Columbia Gas Plant	Columbia	4
TX	Alcoa (Point Comfort)/Lavaca Bay	Point Comfort	4/5
WA	Vancouver Water Station 1 Contamination	Vancouver	4/5
WI	Ripon City Landfill	Fond Du Lac County	11

Number of Sites Proposed to General Superfund Section: 7

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

NATIONAL PRIORITIES LIST PROPOSED RULE NO. 15

Federal Facilities Section

State	Site name	City/county	NPLGr[1]
AK	Fort Richardson (US Army)	Anchorage	4/5
AL	Redstone Arsenal (US Army/NASA)	Huntsville	4/5
MA	Naval Weapons Industrial Reserve Plant	Bedford	4/5
MA	South Weymouth Naval Air Station	Weymouth	4/5
MA	Materials Technology Laboratory (US Army)	Watertown	5

NATIONAL PRIORITIES LIST PROPOSED RULE NO. 15—Continued

Federal Facilities Section

State	Site name	City/county	NPL Gr[1]
ME	Portsmouth Naval Shipyard	Kittery	1
OR	Fremont National Forest/White King & Lucky Lass Uranium Mines (USDA).	Lake County	4/5
WA	Jackson Park Housing Complex (US Navy)	Kitsap County	4/5
WA	Port Hadlock Detachment (US Navy)	Indian Island	4/5
WV	Allegany Ballistics Laboratory (US Navy)	Mineral County	4/5

Number of Sites Proposed to Federal Facilities Section: 10

[1]Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Authority: 42 U.S.C. 9605-9657; 33 U.S.C. 1321(c)(2); E.O. 11777, 56 FR 54757, 3 CFR, 1971—1975 Comp., p. 793; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 14, 1993.

Richard Guimond,

Assistant Surgeon General, USPHS Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 93-14422 Filed 6-18-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Standards of Compliance for Abortion-Related Services in Family Planning Service Projects

AGENCY: Public Health Service, DHHS.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Public Health Service is reopening for 45 days the public comment period on the rules proposed to establish compliance standards for abortion-related services provided by family planning projects funded under title X of the Public Health Service Act. The proposed rules were published in the **Federal Register** on February 5, 1993. DHHS is taking this action in response to requests from the public for further information on prior policies and to obtain more helpful public comment on the proposed rules. DHHS will make a statement of the prior policies available as set forth below.

DATES: Written comments must be received on or before August 9, 1993.

ADDRESSES: *Written comments:* Submit written comments to Mr. Gerald Bennett, Acting Deputy Assistant Secretary for Population Affairs, DHHS, P.O. Box 23783, Washington, DC 20036-3783.

Policy statement: A statement of the policies will be available for inspection and copying at the following regional and central office locations which appear in the Supplementary Information section.

Written comments will be available for public inspection during normal business hours at 200 Independence Ave., SW., room 736E, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Bennett, 202-690-8335.

SUPPLEMENTARY INFORMATION: On February 5, 1993, the Department of Health and Human Services published in the **Federal Register**, at 58 FR 7464, a notice of proposed rulemaking which proposed revised standards of compliance to replace the so-called "Gag Rule" issued on February 2, 1988, at 53 FR 2922. The proposed rule would re-establish for family planning projects funded under title X of the Public Health Service Act, 42 U.S.C. 300 *et seq.*, the standards for compliance with section 1008 of that Act, 42 U.S.C. 300a-6, that applied prior to February 2, 1988. Also published on February 5 was an interim rule which, in part, made applicable to title X projects the pre-1988 policies during the pendency of the rulemaking. As explained in the notice of proposed rulemaking, those policies derive from previous guidelines and opinions of the Department concerning section 1008.

A statement of the policies will be available for inspection and copying at the following regional and central office locations:

Regional Offices

DHHS/PHS Region I (CT, ME, MA, NH, RI, VT), JFK Federal Bldg. Rm. 1826, Government Center, Boston, MA 02203

DHHS Region II (NJ, NY, PR, VI), 26 Federal Plaza, Rm. 3337, New York, NY 10278

DHHS Region III (DE, D.C., MD, PA, VA, WV), 3535 Market St., Rm. 10200, Philadelphia, PA 19104

DHHS Region IV (KY, MS, TN, AL, FL, GA, SC), 101 Marietta Tower, Suite 1106, Atlanta, GA 30323

DHHS Region V (IL, IN, MI, MN, OH, WI), 105 West Adams, 17th Floor, Chicago, IL 60603

DHHS Region VI (AR, LA, NM, OK, TX), 1200 Main Tower Bldg., Rm. 1800, Dallas, TX 75202

DHHS Region VII (IA, KS, MO, NE), Federal Office Building, 601 East 12th Street, Rm. 501, Kansas City, MO 64106

DHHS Region VIII (CO, MT, ND, SD, UT, WY), Federal Building, 1961 Stout Street, Room 498, Denver, CO 80294

DHHS Region IX (AZ, CA, HI, NV, GU, AS, Trust Territories), 50 United Nations Plaza, Rm. 327, San Francisco, CA 94102

DHHS Region X (AK, ID, OR, WA), Blanchard Plaza, 2201 Sixth Avenue, Rm. 710A, Seattle, WA 98121-2500

Washington, DC

Office of Population Affairs, 200 Independence Ave., SW., Room 736E, Washington, DC 20201

The policy statement will be available for public inspection and copying during normal business hours at the above addresses.

The comment period on the proposed rules closed on April 6, 1993. During the comment period, the Department received several requests for further information on the specific details of the pre-1988 policies. The Department agrees that provision of the information requested would promote more informed and helpful public comment on the proposed rules. Accordingly, in order to provide the policies in a convenient and complete manner and to facilitate a more informed public comment on the issues, the Department is making available a statement of those policies for public inspection and copying at the above addresses and reopening the public comment period for an additional 45 days.

Dated: May 20, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–14676 Filed 6–22–93; 8:45 am]

BILLING CODE 4160–17–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–160, RM–8238]

Radio Broadcasting Services; Window Rock, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Western Indian Ministries, Inc., permittee of Station KHAC–FM, Channel 276A, Window Rock, Arizona, seeking the substitution of FM Channel 274C1 for Channel 276A and modification of its authorization accordingly. Coordinates for this proposal are 35–35–00 and 109–02–00.

Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 274C1 at Window Rock, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Western Indian Ministries, Inc., Attn: Laurence Harper, General Director, P.O. Box F, Window Rock, Arizona 86515.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–160, adopted May 25, 1993, and released June 16, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–14705 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–158, RM–8239]

Radio Broadcasting Services; Hazlehurst, Utica and Vicksburg, MS

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by St. Pe' Broadcasting, Inc., proposing the substitution of Channel 265C3 for Channel 225A at Utica, Mississippi, and modification of the license for Station WJXN(FM) to specify operation on the higher class channel. The coordinates for Channel 265C3 at Utica are 32–06–09 and 90–29–56. In accordance with Section 1.420(g) of the Commission's Rules we shall propose to modify the license for Station WJXN(FM) as requested. However, should another party indicate an interest in the C3 allotment, the modification cannot be implemented unless an equivalent class channel is also allotted. To accommodate the upgrade at Utica, we shall propose to substitute Channel 267A for Channel 266A at Vicksburg, Mississippi, at coordinates 32–21–34 and 90–50–08 and substitute Channel 225A for Channel 265C3 at Hazlehurst, Mississippi, at coordinates 31–53–34 and 90–24–08.

DATES: Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Timothy K. Brady, P.O. Box 986, Brentwood, Tennessee 37027–0986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–158 adopted May 25, 1993, and released June 16, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–14704 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–165, RM–8247]

Radio Broadcasting Services; Athens, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by James Phillips seeking the allotment of Channel 240A to Athens, Ohio, as the community's second local commercial